

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JACK W. CHISUM
TDCJ-CID #1094370

V.

MICHAEL MILBY

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§

C.A. NO. C-06-151

**MEMORANDUM OPINION ON PLAINTIFF'S MOTION FOR
COURT REVIEW**

Plaintiff sued Michael Milby, the Clerk of this Court, alleging that Mr. Milby denied him access to the courts when he and/or his deputy clerks refused to accept pleadings for filing in the Houston Division of the Southern District of Texas, and refused to *sua sponte* enter default in a habeas corpus case (D.E. 1). At the time of filing suit plaintiff did not pay the \$250 filing fee. Plaintiff's lawsuit was transferred to the Houston Division of the Southern District of Texas (D.E. 5) and assigned to Hon. Kenneth Hoyt (Cause No. 4:06cv1274). On April 14, 2006, Judge Hoyt dismissed plaintiff's lawsuit on two alternative grounds: (1) pursuant to 28 U.S.C. § 1915(g), plaintiff was barred from filing a lawsuit *in forma pauperis* because plaintiff had had three or more lawsuits dismissed as frivolous or for failure to state a claim; and (2) pursuant to 28 U.S.C. § 1915(e)(2)(B), plaintiff's claims against Mr. Milby were frivolous (4:06cv1274, D.E. 9).

On April 19, 2006, plaintiff filed a pleading labeled a “motion for court review” (D.E. 9). In it plaintiff argues he never intended to file a lawsuit against Mr. Milby. Plaintiff alleges he intended only to file an administrative complaint against Mr. Milby to be addressed by the undersigned in his capacity as Chief Judge.

Regardless of what plaintiff intended when he filed his original pleading, his request for review is now moot. The merits of his complaint were addressed by Judge Hoyt. The Chief Judge does not “sit as a quasi-appellate court and review the decisions of other judges in the district.” *In re McBryde*, 117 F.3d 208, 225 (1997), *cert. denied*, 524 U.S. 937, 118 S.Ct. 2340 (1998). Plaintiff may appeal Judge Hoyt’s decision to the Fifth Circuit Court of Appeals. In any event, the Court does not disagree with the result reached by Judge Hoyt.

Plaintiff’s motion for review (D.E. 10) is denied.

ORDERED this 18 day of May, 2006.


HAYDEN HEAD
CHIEF JUDGE